

APPEAL NO. 042204
FILED OCTOBER 21, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on July 27, 2004. The hearing officer determined that the _____, compensable injury extended to include the left shoulder/trapezius muscle area, but that the appellant/cross-respondent (claimant) has not had disability beginning on January 14, 2004, and continuing through the date of the CCH. The claimant appealed, arguing that the disability determination is against the great weight and preponderance of the evidence. The respondent/cross-appellant (carrier) responded, urging affirmance of the disability determination. The carrier cross-appealed, disputing the extent-of-injury determination. The claimant responded, contending that there is sufficient evidence to support the extent-of-injury determination.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury extended to include the left shoulder/trapezius muscle area and that the claimant did not have disability beginning on January 14, 2004, and continuing through the date of the CCH. The extent-of-injury and disability issues present questions of fact. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In view of the evidence presented, we cannot conclude that the hearing officer's extent-of-injury and disability determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **COMMERCE & INDUSTRY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge